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JEFFERY R. WERNER.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

9 JEFFERY R. WERNER,

Plaintiff,

V.

ZHENYU SONG, an individual, d/b/a/
ZACH TECHNOLOGY, INC.; XIULI
LI, an individual, d/b/a/ ZACH
TECHNOLOGY, INC.; ZACH
TECHNOLOGY, INC.; and DOES 1-5,
inclusive.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FROM
COPYRIGHT INFRINGEMENT**

DEMAND FOR JURY TRIAL

Defendant.

17 Plaintiff Jeffery R. Werner, for his Complaint against Zhenyu Song d/b/a/
18 Zach Technology, Inc.; Xiuli Li d/b/a/ Zach Technology, Inc.; Zach Technology,
19 Inc.; and DOES 1-5
20 d/b/a/ www.chicagochinaren.com
21 d/b/a/ www.chineseinatlanta.com

1 d/b/a/ www.chineseinboston.com

2 d/b/a/ www.chineseinflorida.com

3
4 d/b/a/ www.chineseinhi.com

5 d/b/a/ www.chineseinhouston.com

6 d/b/a/ www.chineseinla.com

7
8 d/b/a/ www.chineseinoz.com

9 d/b/a/ www.chineseinpa.com

10 d/b/a/ www.chineseinsfbay.com

11
12 d/b/a/ www.chineseinvan.com

13 d/b/a/ www.dallasren.com

14
15 d/b/a/ www.dcchinaren.com

16 d/b/a/ www.nychinaren.com

17 d/b/a/ www.sdchinaren.com

18
19 d/b/a/ www.seattlechinaren.com

20 d/b/a/ www.vegaschinaren.com,

21

Defendant, alleges as follows:

INTRODUCTION

3 1. Plaintiff Jeffery R. Werner (hereinafter “Plaintiff”), by counsel, brings
4 this action to challenge the actions of Zhenyu Song d/b/a/ Zach Technology, Inc.;
5 Xiuli Li d/b/a/ Zach Technology, Inc.; Zach Technology, Inc.; and DOES 1-5
6 (hereinafter “Defendants”), with regard to the unlawful use of fourteen (14)
7 copyrighted Images (hereinafter “Images”) owned by Plaintiff, and this conduct
8 caused Plaintiff damages. Defendants have reproduced, displayed, distributed, and
9 otherwise misused the protected Images on numerous websites, including those
10 identified in this Complaint, without authorization and without paying Plaintiff the
11 required commercial license fee. Defendants’ conduct violates the rights of
12 Plaintiff.

PARTIES

14 2. Plaintiff Jeffery R. Werner is a natural person residing in the City of
15 Los Angeles, in the State of California.

16 3. Defendant Zhenyu Song d/b/a/ Zach Technology, Inc. is a natural
17 person residing and doing business in the City of Ontario, in the State of
18 California. Upon information and belief, Song directly participated in the wrongful
19 conduct alleged in this Complaint, and/or had the right and ability to supervise,
20 direct, and control the wrongful conduct of others, and derived a direct financial
21 benefit from that wrongful conduct.

1 4. Defendant Xiuli Li d/b/a/ Zach Technology, Inc. is a natural person
2 residing and doing business in the City of Ontario, in the State of California. Upon
3 information and belief, Li directly participated in the wrongful conduct alleged in
4 this Complaint, and/or had the right and ability to supervise, direct, and control the
5 wrongful conduct of others, and derived a direct financial benefit from that
6 wrongful conduct.

7 5. Zach Technology, Inc. is a corporation organized under the laws of
8 the State of California of which Defendant Song is the Chief Executive Officer.

9 6. Through Zach Technology, Inc., Defendants operate seventeen (17)
10 commercial websites:

11 www.chicagochinaren.com;
12 www.chineseinatlanta.com;
13 www.chineseinboston.com;
14 www.chineseinflorida.com;
15 www.chineseinhi.com;
16 www.chineseinhouston.com;
17 www.chineseinla.com;
18 www.chineseinoz.com;
19 www.chineseinpa.com;
20 www.chineseinsfbay.com;
21 www.chineseinvan.com;

1 www.dallasren.com;
2 www.dcchinaren.com;
3 www.nychinaren.com;
4 www.sdchinaren.com ;
5 www.seattlechinaren.com;
6 www.vegaschinaren.com.

7 **JURISDICTION**

8 7. This Court has original jurisdiction over this action, pursuant to 28
9 U.S.C. §§ 1331 and 1338(a), as this action involves claims brought under federal
10 law, the Copyright Act, 17 U.S.C. § 101 *et seq.*

11 8. Defendant Song is subject to personal jurisdiction in this Court
12 because Defendant Song is an individual residing in the State of California within
13 this judicial district, and doing business in the same.

14 9. Defendant Li is subject to personal jurisdiction in this Court because
15 Defendant Li is an individual residing in the State of California within this judicial
16 district, and doing business in the same.

17 10. Defendant Zach Techonology, Inc. is subject to personal jurisdiction
18 in this Court because Defendant Zach Technology, Inc. is a corporation duly
19 organized under the laws of the State of California.

20 11. Venue is proper in the Central District of California, pursuant to 28
21 U.S.C. § 1391(b)(2)-(3) because a substantial part of the events or omissions

1 giving rise to the claims asserted in this Complaint occurred in the District, or
2 because there is no district in which the action may otherwise be brought and at
3 least one defendant is subject to personal jurisdiction in this District. Venue is also
4 proper in this District, pursuant to 28 U.S.C. §§ 1331(c)(2) and 1400(a), as
5 Defendant and/or his agents reside in this District.

6 **FACTUAL BACKGROUND**

7 12. Plaintiff has over 35 years of experience as a professional
8 photographer. His work has appeared in magazines world-wide as covers,
9 features, and editorial coverage in publications such as Life, Time, Newsweek,
10 People, Marie Claire, FHM, Smithsonian, Playboy, Maxim, In Touch, Daily Mail,
11 Penthouse, Psychology Today, Stern, Country Weekly, and Page Six Sunday
12 Magazine (NY Post) and many others. He has had over 100 double-page spreads
13 in the National Enquirer. His photographs of amazing stunts, performed with
14 motorcycles, airplanes, trains, and other vehicles, were featured on such television
15 shows as: That's Incredible!, The World's Greatest Stunts, Stuntmasters, Guinness
16 World Record Spectaculars, Ripley's Believe It Or Not, and I Dare You.
17 Plaintiff's portfolio of images has also been featured in a 16-page spread in both
18 French and Italian photo magazines, with pickups appearing in Panorama
19 magazine (Netherlands), Stern (Germany), Photo District News (U.S.), Mad
20 Magazine (France), and the 25th anniversary issue of New Look magazine. Many
21 of his iconic photographs were also chosen to be published in the

1 TALK/MIRIMAX coffee table book The National Enquirer, Thirty Years of
2 Unforgettable Images. Plaintiff is a member of the Los Angeles Press Club and
3 the American Society of Media Photographers, and is the CEO of an editorial
4 photo syndication agency, Incredible Features, Inc.

5 13. Plaintiff has developed a specialty in photographing stunts and
6 stuntmen and women. His attention to detail, even while filming dangerous stunts
7 with his signature 15-camera remote photography set-up, has exposed him to the
8 danger involved in getting very close to the action. Capturing these explosive
9 photo sequences landed him the exclusive honor of being the only still
10 photographer inducted into the Stuntworld Hall of Fame. Featured on a segment
11 of “The Adventures” TV show, he was referred to as the “da Vinci of daredevil
12 photography” ([https://helldriversmovie.wordpress.com/2008/11/10/incredible-
13 stunts-book/](https://helldriversmovie.wordpress.com/2008/11/10/incredible-stunts-book/)). French Photo called him the “incredible but true photographer”
14 and Caesar’s Palace chose him as the official photographer for Robbie Knievel’s
15 motorcycle jump across fountains. Those images were licensed by numerous
16 magazines and/or TV outlets around the world, including Life and Sports
17 Illustrated. Plaintiff’s body of stunt photography is displayed in the 2009 coffee
18 table book, Incredible Stunts: The Chaos, Crashes and Courage of the World’s
19 Wildest Stuntmen and Daredevils (ISBN-13: 978-0-9796349-9-4).

20 14. Plaintiff is also well-known for his work with exotic animals,
21 celebrities in their homes, remote aboriginal peoples, sideshow eccentricities, and

1 people who have overcome incredible obstacles. Plaintiff has a growing “outsider
2 art” reputation, and his work was the subject of a retrospective gallery exhibition at
3 the Annenberg Space for Photography in Los Angeles in 2009. Vince Streano,
4 photographer and President Emeritus of the American Society of Media
5 Photographers, has said that “Jeff is the Diane Arbus of the 21st century” because
6 he crosses social lines to celebrate the odd - rather than belittle his subjects.

7 15. The uniqueness of Plaintiff's portfolio, and his talent, have resulted in
8 substantial licensing opportunities throughout the years on which he relies to
9 research and fund future photo shoots and to pay himself and his staff at Incredible
10 Features, Inc. Plaintiff has always maintained the publishing rights to his works,
11 knowing they would provide the revenue to produce his next story. Plaintiff relies
12 on income generated from licensing his photographs for his living. Plaintiff
13 employs a staff dedicated to researching new opportunities for photo shoots, as
14 well as managing, monetizing, and policing the intellectual property of Plaintiff's
15 portfolio.

DEFENDANTS' WRONGFUL CONDUCT

17 16. Beginning at a time unknown and continuing to the present,
18 Defendants have engaged in repeated unlawful acts and practices, which have
19 included extensive infringements of copyrights in photographic images owned by
20 Plaintiff.

21 //

1 17. Defendants have used copyright infringement to create a lucrative
2 media business that profits, in part, by using photographic images that are the
3 protected work of others. Defendants have incorporated the works into two of their
4 seventeen websites, without seeking authorization from, or making payments to,
5 the author of the works, Plaintiff.

6 18. By way of example, Defendants' infringements of copyrights include,
7 but are not limited to, the following:

8 a. On or about March 23, 2017, International Intellectual
9 Property, Inc. identified a photographic image, with the catalog description
10 "jeffery_werner_30825.jpg," that had been reproduced, displayed, and
11 distributed on the website www.chineseinsfbay.com without authorization
12 by Plaintiff. Upon information and belief, the identified site was designed,
13 owned, operated, and controlled by Defendants, and used by them to
14 promote Defendants' advertising-driven services. By letter dated May 10,
15 2017, Plaintiff notified Defendants in Ontario, California that the use of the
16 image was without authorization and constituted copyright infringement.
17 The photographic image is the subject of copyright Certification of
18 Registration VA 1-920-155. *See* Original Image, a true and correct copy of
19 which is attached as Exhibit A-1.

20 b. On or about March 23, 2017, International Intellectual
21 Property, Inc. identified a photographic image, with the catalog description

1 “jeffery_werner_30835.jpg,” that had been reproduced, displayed, and
2 distributed on the website www.chineseinsfbay.com without authorization
3 by Plaintiff. Upon information and belief, the identified site was designed,
4 owned, operated, and controlled by Defendants, and used by them to
5 promote Defendants’ advertising-driven services. By letter dated May 10,
6 2017, Plaintiff notified Defendants in Ontario, California that the use of the
7 image was without authorization and constituted copyright infringement.
8 The photographic image is the subject of copyright Certification of
9 Registration VA 1-920-155. *See* Original Image, a true and correct copy of
10 which is attached as Exhibit A-2.

11 c. On or about March 23, 2017, International Intellectual
12 Property, Inc. identified a photographic image, with the catalog description
13 “jeffery_werner_30837.jpg,” that had been reproduced, displayed, and
14 distributed on the website www.chineseinsfbay.com without authorization
15 by Plaintiff. Upon information and belief, the identified site was designed,
16 owned, operated, and controlled by Defendants, and used by them to
17 promote Defendants’ advertising-driven services. By letter dated May 10,
18 2017, Plaintiff notified Defendants in Ontario, California that the use of the
19 image was without authorization and constituted copyright infringement.
20 The photographic image is the subject of copyright Certification of
21 Registration VA 1-920-155. *See* Original Image, a true and correct copy of

1 which is attached as Exhibit A-3.

2 d. On or about March 23, 2017, International Intellectual
3 Property, Inc. identified a photographic image, with the catalog description
4 “jeffery_werner_30840.jpg,” that had been reproduced, displayed, and
5 distributed on the website www.chineseinsfbay.com without authorization
6 by Plaintiff. Upon information and belief, the identified site was designed,
7 owned, operated, and controlled by Defendants, and used by them to
8 promote Defendants’ advertising-driven services. By letter dated May 10,
9 2017, Plaintiff notified Defendants in Ontario, California that the use of the
10 image was without authorization and constituted copyright infringement.
11 The photographic image is the subject of copyright Certification of
12 Registration VA 1-920-155. *See* Original Image, a true and correct copy of
13 which is attached as Exhibit A-4.

14 e. On or about March 23, 2017, International Intellectual
15 Property, Inc. identified a photographic image, with the catalog description
16 “jeffery_werner_30844.jpg,” that had been reproduced, displayed, and
17 distributed on the website www.chineseinsfbay.com without authorization
18 by Plaintiff. Upon information and belief, the identified site was designed,
19 owned, operated, and controlled by Defendants, and used by them to
20 promote Defendants’ advertising-driven services. By letter dated May 10,
21 2017, Plaintiff notified Defendants in Ontario, California that the use of the

1 image was without authorization and constituted copyright infringement.
2 The photographic image is the subject of copyright Certification of
3 Registration VA 1-920-155. *See Original Image*, a true and correct copy of
4 which is attached as Exhibit A-5.

5 f. On or about March 23, 2017, International Intellectual
6 Property, Inc. identified a photographic image, with the catalog description
7 “jeffery_werner_31011.jpg,” that had been reproduced, displayed, and
8 distributed on the website www.chineseinsfbay.com without authorization
9 by Plaintiff. Upon information and belief, the identified site was designed,
10 owned, operated, and controlled by Defendants, and used by them to
11 promote Defendants’ advertising-driven services. By letter dated May 10,
12 2017, Plaintiff notified Defendants in Ontario, California that the use of the
13 image was without authorization and constituted copyright infringement.
14 The photographic image is the subject of copyright Certification of
15 Registration VA 1-920-155. *See Original Image*, a true and correct copy of
16 which is attached as Exhibit A-6.

17 g. On or about March 23, 2017, International Intellectual
18 Property, Inc. identified a photographic image, with the catalog description
19 “jeffery_werner_31014.jpg,” that had been reproduced, displayed, and
20 distributed on the website www.chineseinsfbay.com without authorization
21 by Plaintiff. Upon information and belief, the identified site was designed,

owned, operated, and controlled by Defendants, and used by them to promote Defendants' advertising-driven services. By letter dated May 10, 2017, Plaintiff notified Defendants in Ontario, California that the use of the image was without authorization and constituted copyright infringement. The photographic image is the subject of copyright Certification of Registration VA 1-920-155. *See* Original Image, a true and correct copy of which is attached as Exhibit A-7.

h. On or about March 23, 2017, International Intellectual Property, Inc. identified a photographic image, with the catalog description "jeffery_werner_31018.jpg," that had been reproduced, displayed, and distributed on the website www.chineseinsfbay.com without authorization by Plaintiff. Upon information and belief, the identified site was designed, owned, operated, and controlled by Defendants, and used by them to promote Defendants' advertising-driven services. By letter dated May 10, 2017, Plaintiff notified Defendants in Ontario, California that the use of the image was without authorization and constituted copyright infringement. The photographic image is the subject of copyright Certification of Registration VA 1-920-155. *See Original Image*, a true and correct copy of which is attached as Exhibit A-8.

i. On or about March 23, 2017, International Intellectual Property, Inc. identified a photographic image, with the catalog description

1 “jeffery_werner_31021.jpg,” that had been reproduced, displayed, and
2 distributed on the website www.chineseinsfbay.com without authorization
3 by Plaintiff. Upon information and belief, the identified site was designed,
4 owned, operated, and controlled by Defendants, and used by them to
5 promote Defendants’ advertising-driven services. By letter dated May 10,
6 2017, Plaintiff notified Defendants in Ontario, California that the use of the
7 image was without authorization and constituted copyright infringement.
8 The photographic image is the subject of copyright Certification of
9 Registration VA 1-920-155. *See* Original Image, a true and correct copy of
10 which is attached as Exhibit A-9.

11 j. On or about March 23, 2017, International Intellectual
12 Property, Inc. identified a photographic image, with the catalog description
13 “jeffery_werner_31028.jpg,” that had been reproduced, displayed, and
14 distributed on the website www.chineseinsfbay.com without authorization
15 by Plaintiff. Upon information and belief, the identified site was designed,
16 owned, operated, and controlled by Defendants, and used by them to
17 promote Defendants’ advertising-driven services. By letter dated May 10,
18 2017, Plaintiff notified Defendants in Ontario, California that the use of the
19 image was without authorization and constituted copyright infringement.
20 The photographic image is the subject of copyright Certification of
21 Registration VA 1-920-155. *See* Original Image, a true and correct copy of

which is attached as Exhibit A-10.

k. On or about March 23, 2017, International Intellectual Property, Inc. identified a photographic image, with the catalog description "jeffery_werner_30850.jpg," that had been reproduced, displayed, and distributed on the website www.chineseinsfbay.com without authorization by Plaintiff. Upon information and belief, the identified site was designed, owned, operated, and controlled by Defendants, and used by them to promote Defendants' advertising-driven services. By letter dated May 10, 2017, Plaintiff notified Defendants in Ontario, California that the use of the image was without authorization and constituted copyright infringement. The photographic image is the subject of copyright Certification of Registration VA 1-920-155. *See Original Image*, a true and correct copy of which is attached as Exhibit A-11.

1. On or about March 23, 2017, International Intellectual Property, Inc. identified a photographic image, with the catalog description "jeffery_werner_snuggery_017.jpg," that had been reproduced, displayed, and distributed on the website www.nychinaren.com without authorization by Plaintiff. Upon information and belief, the identified site was designed, owned, operated, and controlled by Defendants, and used by them to promote Defendants' advertising-driven services. By letter dated May 10, 2017, Plaintiff notified Defendants in Ontario, California that the use of the

1 image was without authorization and constituted copyright infringement.
2 The photographic image is the subject of copyright Certification of
3 Registration VAu 1-119-467. *See Original Image*, a true and correct copy of
4 which is attached as Exhibit A-12.

5 m. On or about March 23, 2017, International Intellectual
6 Property, Inc. identified a photographic image, with the catalog description
7 “jeffery_werner_snuggery_033.jpg,” that had been reproduced, displayed,
8 and distributed on the website www.nychinaren.com without authorization
9 by Plaintiff. Upon information and belief, the identified site was designed,
10 owned, operated, and controlled by Defendants, and used by them to
11 promote Defendants’ advertising-driven services. By letter dated May 10,
12 2017, Plaintiff notified Defendants in Ontario, California that the use of the
13 image was without authorization and constituted copyright infringement.
14 The photographic image is the subject of copyright Certification of
15 Registration VAu 1-119-467. *See Original Image*, a true and correct copy of
16 which is attached as Exhibit A-13.

17 n. On or about March 23, 2017, International Intellectual
18 Property, Inc. identified a photographic image, with the catalog description
19 “jeffery_werner_snuggery_036.jpg,” that had been reproduced, displayed,
20 and distributed on the website www.nychinaren.com without authorization
21 by Plaintiff. Upon information and belief, the identified site was designed,

owned, operated, and controlled by Defendants, and used by them to promote Defendants' advertising-driven services. By letter dated May 10, 2017, Plaintiff notified Defendants in Ontario, California that the use of the image was without authorization and constituted copyright infringement. The photographic image is the subject of copyright Certification of Registration VAu 1-119-467. *See Original Image*, a true and correct copy of which is attached as Exhibit A-14.

19. Hereinafter, the images listed in paragraphs 12(a-k) will be referred to as “Huntress Images.”

20. Hereinafter, the images listed in paragraphs 12(l-n) will be referred to as "Snuggery Images."

21. Plaintiff originally licensed Huntress Images to www.dailymail.co.uk via Barcroft Media, a sublicensing agent, for the UK only for a story entitled “Killer queens: Meet the bloodthirsty big game huntresses who claim to be animal lovers – despite having slain more than 70 species across the world” which was published on November 25, 2013, hereinafter referred to as “Original Huntress Article”. *See* Original Huntress Article, attached hereto as Exhibit B.

22. On information and belief, on November 27, 2013, Defendants gained access to Huntress Images through Original Huntress Article, unlawfully saved the same on its server, and unlawfully published the same as its own website knowing that they had no rights to use Huntress Images, hereinafter referred to as

1 “Infringing Huntress Article”. *See* Infringing Huntress Article, attached hereto as
2 Exhibit C.

3 23. On information and belief, on February 18, 2014, Defendants gained
4 access to Snuggery Images through an unknown source, unlawfully saved the same
5 on its server, and unlawfully published the same as its own website knowing that
6 they had no rights to use Snuggery Images, hereinafter referred to as “Infringing
7 Snuggery Article”. *See* Infringing Snuggery Article, attached hereto as Exhibit D.

8 24. Defendants’ infringements were and are willful and deliberate, and
9 done with knowledge of the copyrights held by Plaintiff. By way of example,
10 Defendants cropped plaintiff’s watermark off of the Huntress Images and placed
11 its own on the Images, and placed its own watermark on the Snuggery Images.

12 25. In an attempt to conceal their continuing infringements from Plaintiff,
13 Defendants have, without authorization, modified, altered and incorporated
14 copyright-protected elements of the photographic images exclusive rights to which
15 Plaintiff owns. By way of example, in willful and deliberate disregard of the
16 exclusive rights of Plaintiff, Defendants removed Plaintiff’s watermark on eleven
17 (11) of the images (*See* Defendant’s Watermark Removal, attached hereto as
18 Exhibit E1-E12):

19 a. Defendants removed Plaintiff’s watermark on
20 “**jeffery_werner_30825.jpg**” by cropping off the bottom of the original
21 image. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as

1 Exhibit E1.

2 b. Defendants removed Plaintiff's watermark on
3 “**jeffery_werner_30835.jpg**” by cropping the bottom of the original image.

4 See Daily Mail Use vs. Zach Use Comparison, attached hereto as Exhibit
5 E2.

6 c. Defendants removed Plaintiff's watermark on
7 “**jeffery_werner_30837.jpg**” by cropping off the bottom of the original
8 image. See Daily Mail Use vs. Zach Use Comparison, attached hereto as
9 Exhibit E3.

10 d. Defendants removed Plaintiff's watermark on
11 “**jeffery_werner_30840.jpg**” by cropping off the bottom of the original
12 image. See Daily Mail Use vs. Zach Use Comparison, attached hereto as
13 Exhibit E4.

14 e. Defendants removed Plaintiff's watermark on
15 “**jeffery_werner_30844.jpg**” by cropping off the bottom of the original
16 image. See Daily Mail Use vs. Zach Use Comparison, attached hereto as
17 Exhibit E5.

18 f. Defendants removed Plaintiff's watermark on
19 “**jeffery_werner_31011.jpg**” by cropping off the bottom of the original
20 image. See Daily Mail Use vs. Zach Use Comparison, attached hereto as
21 Exhibit E6.

g. Defendants removed Plaintiff's watermark on “jeffery_werner_31014.jpg” by using a “rubber stamp” tool which copies surrounding areas and covers the editor’s desired portion. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as Exhibit E7-E8.

h. Defendants removed Plaintiff's watermark on “**jeffery_werner_31018.jpg**” by cropping off the bottom of the original image. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as Exhibit E9.

i. Defendants removed Plaintiff's watermark on “jeffery_werner_31021.jpg” by cropping off the bottom of the original image. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as Exhibit E10.

j. Defendants removed Plaintiff's watermark on “jeffery_werner_31028.jpg” by cropping off the bottom of the original image. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as Exhibit E11.

k. Defendants removed Plaintiff's watermark on “jeffery_werner_30850.jpg” by cropping off the bottom of the original image. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as Exhibit E12.

21 || 26. In an attempt to conceal their continuing infringements from Plaintiff,

1 Defendants have, without authorization, modified, altered and incorporated
2 copyright-protected elements of the photographic images exclusive rights to which
3 Plaintiff owns. By way of example, in willful and deliberate disregard of the
4 exclusive rights of Plaintiff, Defendants placed its own watermark on eleven (11)
5 of the images (*See* Defendant's Watermark Additions, attached hereto as Exhibit
6 E1-E12):

7 a. Defendants placed their own watermark on
8 “jeffery_werner_30825.jpg,” in the bottom right so as not to obstruct the
9 object of the image, indicating that such placement was done by a human
10 eye. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as
11 Exhibit E1.

12 b. Defendants placed their own watermark on
13 “jeffery_werner_30835.jpg,” in the upper right so as not to obstruct the
14 object of the image, indicating that such placement was done by a human
15 eye. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as
16 Exhibit E2.

17 c. Defendants placed their own watermark on
18 “jeffery_werner_30837.jpg,” in the upper right so as not to obstruct the
19 object of the image, indicating that such placement was done by a human
20 eye. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as
21 Exhibit E3.

1 d. Defendants placed their own watermark on
2 “**jeffery_werner_30840.jpg**,” in the lower right so as not to obstruct the
3 object of the image, indicating that such placement was done by a human
4 eye. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as
5 Exhibit E4.

6 e. Defendants placed their own watermark on
7 “**jeffery_werner_30844.jpg**,” in the lower left so as not to obstruct the
8 object of the image, indicating that such placement was done by a human
9 eye. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as
10 Exhibit E5.

11 f. Defendants placed their own watermark on
12 “jeffery_werner_31011.jpg,” in the lower right so as not to obstruct the
13 object of the image, indicating that such placement was done by a human
14 eye. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as
15 Exhibit E6.

16 g. Defendants placed their own watermark on
17 “jeffery_werner_31014.jpg,” in the lower right so as not to obstruct the
18 object of the image, indicating that such placement was done by a human
19 eye. *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as
20 Exhibit E7-E8.

21 h. Defendants placed their own watermark on

1 “jeffery_werner_31018.jpg,” in the lower right so as not to obstruct the
2 object of the image, indicating that such placement was done by a human
3 eye. *See Daily Mail Use vs. Zach Use Comparison*, attached hereto as
4 Exhibit E9.

5 i. Defendants placed their own watermark on
6 “jeffery_werner_31021.jpg,” in the lower left so as not to obstruct the
7 object of the image, indicating that such placement was done by a human
8 eye. *See Daily Mail Use vs. Zach Use Comparison*, attached hereto as
9 Exhibit E10.

10 j. Defendants placed their own watermark on
11 “jeffery_werner_31028.jpg,” in the upper right so as not to obstruct the
12 object of the image, indicating that such placement was done by a human
13 eye. *See Daily Mail Use vs. Zach Use Comparison*, attached hereto as
14 Exhibit E11.

15 k. Defendants placed their own watermark on “jeffery_werner_
16 30850.jpg,” in the lower right so as not to obstruct the object of the image,
17 indicating that such placement was done by a human eye. *See Daily Mail*
18 *Use vs. Zach Use Comparison*, attached hereto as Exhibit E12.

19 l. Defendants placed their own watermark on
20 “jeffery_werner_snuggery_036.jpg,” in the lower left so as not to obstruct
21 the object of the image, indicating that such placement was done by a human

eye. See Image Present on www.nychinaren.com Server, attached hereto as Exhibit F10.

3 27. In an attempt to conceal their continuing infringements from Plaintiff,
4 Defendants have, without authorization, modified, altered and incorporated
5 copyright-protected elements of the photographic images exclusive rights to which
6 Plaintiff owns. By way of example, in willful and deliberate disregard of the
7 exclusive rights of Plaintiff, Defendants removed Plaintiff's copyright information
8 in the metadata "credit line". (See Defendant's Watermark Removal, attached
9 hereto as Exhibit E1-E12):

10 a. Defendants removed Plaintiff's copyright information in the
11 metadata of "**jeffery_werner_30825.jpg**". *See* Daily Mail Use vs. Zach Use
12 Comparison, attached hereto as Exhibit E1.

13 b. Defendants removed Plaintiff's copyright information in the
14 metadata of "**jeffery_werner_30835.jpg**". *See* Daily Mail Use vs. Zach Use
15 Comparison, attached hereto as Exhibit E2.

16 c. Defendants removed Plaintiff's copyright information in the
17 metadata of "**jeffery_werner_30837.jpg**". *See* Daily Mail Use vs. Zach Use
18 Comparison, attached hereto as Exhibit E3.

19 d. Defendants removed Plaintiff's copyright information in the
20 metadata of "jeffery_werner_30840.jpg". *See* Daily Mail Use vs. Zach Use
21 Comparison, attached hereto as Exhibit E4.

e. Defendants removed Plaintiff's copyright information in the metadata of "**jeffery_werner_30844.jpg**". *See Daily Mail Use vs. Zach Use Comparison*, attached hereto as Exhibit E5.

f. Defendants removed Plaintiff's copyright information in the metadata of "**jeffery_werner_31011.jpg**". *See Daily Mail Use vs. Zach Use Comparison*, attached hereto as Exhibit E6.

g. Defendants removed Plaintiff's copyright information in the metadata of "**jeffery_werner_31014.jpg**". *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as Exhibit E7-E8.

h. Defendants removed Plaintiff's copyright information in the metadata of "**jeffery_werner_31018.jpg**". *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as Exhibit E9.

i. Defendants removed Plaintiff's copyright information in the metadata of "**jeffery_werner_31021.jpg**". *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as Exhibit E10.

j. Defendants removed Plaintiff's copyright information in the metadata of "**jeffery_werner_31028.jpg**". *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as Exhibit E11.

k. Defendants removed Plaintiff's copyright information in the metadata of "**jeffery_werner_30850.jpg**". *See* Daily Mail Use vs. Zach Use Comparison, attached hereto as Exhibit E12.

1 28. Defendants' infringements were and are willful and deliberate, and
2 done with knowledge of the copyrights held by Plaintiff. By way of example,
3 Defendants were on notice of the copyrights held by Plaintiff, yet Defendants
4 continued to make infringing uses of the Huntress Images and Snuggery Images:

5 a. Defendants received written notice of Plaintiff's rights in the
6 “jeffery_werner_31011” at least as early as May 11, 2017, when Plaintiff
7 objected to the infringing use of the image in Defendants' website
8 www.chineseinsfbay.com. In willful disregard of the rights held by Plaintiff,
9 Defendants continued to make use of “jeffery_werner_31011” until
10 present. *See* Image Present on www.chineseinsfbay.com Server, attached
11 hereto as Exhibit F1.

12 b. Defendants received written notice of Plaintiff's rights in the
13 “jeffery_werner_30850” at least as early as May 11, 2017, when Plaintiff
14 objected to the infringing use of the image in Defendants' website
15 www.chineseinsfbay.com. In willful disregard of the rights held by Plaintiff,
16 Defendants continued to make use of “jeffery_werner_30850” until
17 present. *See* Image Present on www.chineseinsfbay.com Server, attached
18 hereto as Exhibit F1.

19 c. Defendants received written notice of Plaintiff's rights in the
20 “jeffery_werner_31014” at least as early as May 11, 2017, when Plaintiff
21 objected to the infringing use of the image in Defendants' website

1 www.chineseinsfbay.com. In willful disregard of the rights held by Plaintiff,
2 Defendants continued to make use of “**jeffery_werner_31014**” until
3 present. *See Image Present on www.chineseinsfbay.com Server, attached*
4 *hereto as Exhibit F2.*

5 d. Defendants received written notice of Plaintiff’s rights in the
6 “**jeffery_werner_31021**” at least as early as May 11, 2017, when Plaintiff
7 objected to the infringing use of the image in Defendants’ website
8 www.chineseinsfbay.com. In willful disregard of the rights held by Plaintiff,
9 Defendants continued to make use of “**jeffery_werner_31021**” until
10 present. *See Image Present on www.chineseinsfbay.com Server, attached*
11 *hereto as Exhibit F3.*

12 e. Defendants received written notice of Plaintiff’s rights in the
13 “**jeffery_werner_31028**” at least as early as May 11, 2017, when Plaintiff
14 objected to the infringing use of the image in Defendants’ website
15 www.chineseinsfbay.com. In willful disregard of the rights held by Plaintiff,
16 Defendants continued to make use of “**jeffery_werner_31028**” until
17 present. *See Image Present on www.chineseinsfbay.com Server, attached*
18 *hereto as Exhibit F4.*

19 f. Defendants received written notice of Plaintiff’s rights in the
20 “**jeffery_werner_30835**” at least as early as May 11, 2017, when Plaintiff
21 objected to the infringing use of the image in Defendants’ website

1 www.chineseinsfbay.com. In willful disregard of the rights held by Plaintiff,
2 Defendants continued to make use of “jeffery_werner_30835” until
3 present. *See* Image Present on www.chineseinsfbay.com Server, attached
4 hereto as Exhibit F5.

5 g. Defendants received written notice of Plaintiff’s rights in the
6 “jeffery_werner_31018” at least as early as May 11, 2017, when Plaintiff
7 objected to the infringing use of the image in Defendants’ website
8 www.chineseinsfbay.com. In willful disregard of the rights held by Plaintiff,
9 Defendants continued to make use of “jeffery_werner_31018” until
10 present. *See* Image Present on www.chineseinsfbay.com Server, attached
11 hereto as Exhibit F6.

12 h. Defendants received written notice of Plaintiff’s rights in the
13 “jeffery_werner_30837” at least as early as May 11, 2017, when Plaintiff
14 objected to the infringing use of the image in Defendants’ website
15 www.chineseinsfbay.com. In willful disregard of the rights held by Plaintiff,
16 Defendants continued to make use of “jeffery_werner_30837” until
17 present. *See* Image Present on www.chineseinsfbay.com Server, attached
18 hereto as Exhibit F7.

19 i. Defendants received written notice of Plaintiff’s rights in the
20 “jeffery_werner_30825” at least as early as May 11, 2017, when Plaintiff
21 objected to the infringing use of the image in Defendants’ website

1 www.chineseinsfbay.com. In willful disregard of the rights held by Plaintiff,
2 Defendants continued to make use of “jeffery_werner_30825” until
3 present. *See* Image Present on www.chineseinsfbay.com Server, attached
4 hereto as Exhibit F8.

5 j. Defendants received written notice of Plaintiff’s rights in the
6 “jeffery_werner_30840” at least as early as May 11, 2017, when Plaintiff
7 objected to the infringing use of the image in Defendants’ website
8 www.chineseinsfbay.com. In willful disregard of the rights held by Plaintiff,
9 Defendants continued to make use of “jeffery_werner_30840” until
10 present. *See* Image Present on www.chineseinsfbay.com Server, attached
11 hereto as Exhibit F8.

12 k. Defendants received written notice of Plaintiff’s rights in the
13 “jeffery_werner_30844” at least as early as May 11, 2017, when Plaintiff
14 objected to the infringing use of the image in Defendants’ website
15 www.chineseinsfbay.com. In willful disregard of the rights held by Plaintiff,
16 Defendants continued to make use of “jeffery_werner_30844” until
17 present. *See* Image Present on www.chineseinsfbay.com Server, attached
18 hereto as Exhibit F9.

19 l. Defendants received written notice of Plaintiff’s rights in the
20 “jeffery_werner_snuggery_017” at least as early as May 11, 2017, when
21 Plaintiff objected to the infringing use of the image in Defendants’ website

1 www.nychinaren.com. In willful disregard of the rights held by Plaintiff,
2 Defendants continued to make use of “**jeffery_werner_snuggery_017**”
3 until present. *See* Image Present on www.nychinaren.com Server, attached
4 hereto as Exhibit F10.

5 m. Defendants received written notice of Plaintiff’s rights in the
6 “**jeffery_werner_snuggery_033**” at least as early as May 11, 2017, when
7 Plaintiff objected to the infringing use of the image in Defendants’ website
8 www.nychinaren.com. In willful disregard of the rights held by Plaintiff,
9 Defendants continued to make use of “**jeffery_werner_snuggery_033**”
10 until present. *See* Image Present on www.nychinaren.com Server, attached
11 hereto as Exhibit F10.

12 n. Defendants received written notice of Plaintiff’s rights in the
13 “**jeffery_werner_snuggery_036**” at least as early as May 11, 2017, when
14 Plaintiff objected to the infringing use of the image in Defendants’ website
15 www.nychinaren.com. In willful disregard of the rights held by Plaintiff,
16 Defendants continued to make use of “**jeffery_werner_snuggery_036**”
17 until present. *See* Image Present on www.nychinaren.com Server, attached
18 hereto as Exhibit F10.

19 29. In a misguided attempt to conceal their wrongdoings, on May 31,
20 2017, Defendants registered their 17 sites with the DMCA.

21 30. Plaintiff now brings this action to recover damages resulting from

1 Defendant's copyright infringements, and to enjoin future infringements by
2 Defendant of those copyrights.

3 **FIRST CAUSE OF ACTION**

4 **COPYRIGHT INFRINGEMENT**

5 31. Plaintiff incorporates by reference all of the above paragraphs of this
6 Complaint as though fully stated herein.

7 32. Plaintiff is the exclusive copyright holder of the photographic Images
8 that are the subject of this action. Among the rights granted Plaintiff is the
9 exclusive right to market and license the right to copy, reproduce, display, modify,
10 alter, and create derivative works of each image. Additionally, Plaintiff holds the
11 exclusive right to make and control claims related to infringements of copyrights
12 in the images. A certificate of registration has been issued for each image, as
13 evidenced by the certificates attached as Exhibit A.

14 33. Defendants have reproduced, displayed, distributed, and made other
15 infringing uses of the protected Images, without authorization by Plaintiff,
16 including Defendants' infringing use of those images on the following websites,
17 including but not limited to:

18 www.nychinaren.com

19 www.chineseinsfbay.com

20 34. Defendants have modified, altered and incorporated copyright-
21 protected elements of the subject images in purported new works, without

1 authorization by Plaintiff and in an attempt to conceal their continuing
2 infringements from Plaintiff, in violation of 17 U.S.C. § 106(3) granting to a
3 copyright owner the exclusive right to prepare derivative works based upon a
4 copyrighted work.

5 35. As a result of each and every Defendants' violations of Title 17 of the
6 U.S. Code, Plaintiff is entitled to actual damages and profits pursuant to 17 U.S.C.
7 §504(b), or statutory damages in an amount up to \$150,000.00 for each
8 infringement pursuant to 17 U.S.C. § 504(c).

9 36. As a result of the Defendants' violations of Title 17 of the U.S. code,
10 the court in its discretion may allow the recovery of full costs as well as reasonable
11 attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendant.

12 37. Plaintiff has suffered, and will continue to suffer, substantial and
13 irreparable damage to its business reputation and goodwill as a result of
14 Defendant's infringements. In addition to actual damages, Plaintiff is entitled to an
15 award of any profits made by defendants from their wrongful acts pursuant to 17
16 U.S.C § 504. In the alternative, Plaintiff is entitled to actual damages and profits
17 pursuant to 17 U.S.C. §504(b), or statutory damages in an amount up to
18 \$150,000.00 for each infringement pursuant to 17 U.S.C. § 504(c), which should
19 be enhanced in accordance with 17 U.S.C. § 504(c)(2) due to Defendant's willful
20 conduct.

21 38. Plaintiff has no adequate remedy at law for defendants' wrongful

1 conduct in that: (1) the subject images are unique and valuable properties; (2)
2 Defendants' infringements interfere with Plaintiff's goodwill and customer
3 relations; and (3) Defendants' infringements and damage resulting therefrom are
4 continuing. Plaintiff is entitled therefore to injunctive relief pursuant to 17 U.S.C.
5 § 502, and an order impounding all infringing materials pursuant to 17 U.S.C. §
6 503.

7 **SECOND CAUSE OF ACTION**

8 **REMOVAL OF COPYRIGHT MANAGEMENT INFORMATION**

9 39. As a result of each and every Defendants' violations of Title 17 of the
10 U.S. Code, Plaintiff is entitled to statutory damages in an amount up to \$25,000.00
11 for each removal of copyright management information pursuant to 17 U.S.C. §
12 1203(c)(3)(B).

13 **THIRD CAUSE OF ACTION**

14 **FALSE COPYRIGHT MANAGEMENT INFORMATION**

15 40. As a result of each and every Defendants' violations of Title 17 of the
16 U.S. Code, Plaintiff is entitled to statutory damages in an amount up to \$25,000.00
17 for each provision of false copyright management information pursuant to 17
18 U.S.C. § 1203(c)(3)(B).

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant

- Awarding Plaintiff statutory damages in an amount up to \$150,000.00 for each infringement pursuant to 17 U.S.C. § 504(c) in an amount no less than \$10,500 for 14 infringements;
- Awarding Plaintiff statutory damages in an amount up to \$25,000 for each removal of copyright management information in violation of 17 U.S.C. § 1202(b)(1) pursuant to 17 U.S.C. § 1203(c)(3)(B), in an amount no less than \$55,000.00 for 22 removals;
- Awarding Plaintiff statutory damages in an amount up to \$25,000 for each provision of false copyright management information in violation of 17 U.S.C. § 1202(a)(1) pursuant to 17 U.S.C. § 1203(c)(3)(B) in an amount no less than \$30,000.00 for 12 provisions;
- Awarding Plaintiff costs of litigation and reasonable attorney's fees, pursuant to 17 U.S.C. § 505;
- Enjoining the Defendant from further infringement of all copyrighted works of the Plaintiff pursuant to 17 U.S.C. § 502; and

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- Awarding any other relief the Court deems just and proper.

Dated: July 14, 2017

Respectfully submitted,

/s/ Mathew K. Higbee
Mathew K. Higbee, Esq.
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(714) 617-8350
(714) 597-6729 facsimile
Counsel for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff, Jeffery R. Werner, hereby demands a trial by jury in the above matter.

Dated: July 14, 2017

Respectfully submitted,

/s/ Mathew K. Higbee
Mathew K. Higbee, Esq.
Cal. Bar No. 241380
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